

AMENDED IN ASSEMBLY APRIL 18, 2002

AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2436

Introduced by Assembly Member Frommer

February 21, 2002

An act to amend Section 25220 of the Health and Safety Code, *and to add Section 13194 to the Water Code*, relating to ~~hazardous waste~~ the environment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2436, as amended, Frommer. Hazardous waste: land use restrictions: *cleanup and abatement*.

Existing

(1) *Existing* law requires the Department of Toxic Substances Control to notify the planning and building department of each city, county, or regional council of governments of certain land use restrictions imposed upon property designated as hazardous waste property or border zone property, sites listed for remedial or removal action, and remedial action land use controls. Existing law requires the planning department of those local agencies to file those restrictions and take specified actions and law authorizes the city, county, or region council to assess a fee to cover the costs of taking those actions. Existing law requires the department to maintain this list of land use restrictions in a specified manner and to make the list available electronically, as specified.

This bill would additionally require the department to include, in the list, certain environmental land use restrictions reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials.

The bill would authorize the department to enter into a contract with a third party, in accordance with the State Contract Act, for purposes of maintaining the list, if the department makes a specified finding. The bill would authorize the department to assess a property owner a fee for the reasonable costs of maintaining the list *and would require the department to deposit the fees in the Hazardous Waste Control Account in the General Fund, which is available for expenditure by the department, upon appropriation by the Legislature, to carry out the regulation of hazardous waste.*

The bill would authorize the department to expend the fees assessed pursuant to the bill, upon appropriation by the Legislature, to carry out the maintenance of the list, including entering into a contract with a third party.

(2) *Existing law, the Porter-Cologne Water Quality Control Act, provides for the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and provides for the expenditure of those funds by the State Water Resources Control Board for specified purposes regarding the implementation of the act.*

This bill would require the board to post, on its Internet Web site, a list of all sites for which a California regional water quality control board has imposed a land restriction contained in a cleanup or abatement order issued pursuant to the act. The bill would authorize the board to assess a fee upon a person subject to such an order for the reasonable costs of taking this action and would require the board to deposit the fee revenues in the State Water Pollution Cleanup and Abatement Account of the State Water Quality Control Fund to carry out this action, thereby making an appropriation.

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25220 of the Health and Safety Code is
- 2 amended to read:
- 3 25220. (a) For purposes of this article, unless the context
- 4 clearly requires a different meaning:



(1) “Determination” means a decision by the department as to whether land should be designated as hazardous waste property or border zone property and that is reached after an analysis and an evaluation of the information obtained by the department.

(2) “Designation” means imposition of the requirements specified in Section 25230 after a determination, a public hearing, and a decision by the director has occurred pursuant to Section 25229.

(b) Whenever there is reasonable cause for the department to believe that any land may be a hazardous waste property or border zone property, the department may, by certified mail, request any person who owns, leases, or occupies the land, or any other person who has information relating to the land, to provide any or all of the following information:

(1) A description of the present use of the land.

(2) The types and volumes of hazardous waste or extremely hazardous waste contained therein or thereon.

(3) The date or dates the hazardous waste or extremely hazardous waste was deposited into or onto the land.

(4) A map or maps of the property that they own and that contains or overlies hazardous waste or extremely hazardous waste, drawn to a scale of not more than 200 feet to the inch, that shows the area or areas where the hazardous waste or extremely hazardous waste is contained or was deposited. The provision of a map pursuant to this paragraph shall not be required if the respondent to the request asserts in writing that the respondent has no knowledge or insufficient knowledge of the existence or location of the wastes to comply with this subdivision.

(5) Any other information that relates to the disposal of hazardous waste on or within 2,000 feet of the property or the potential for the migration of those wastes.

(c) Any person who is requested to provide information pursuant to subdivision (b) shall submit the information to the department within 90 calendar days of receipt of the request.

(d) The department shall notify the planning and building department of each city, county, or regional council of governments of any recorded land use restriction imposed pursuant to Section 25202.5, 25222.1, 25229, 25230, 25355.5, or 25398.7 within the jurisdiction of the local agency. Upon receiving

1 this notification, the planning and building department shall do
2 both of the following:

3 (1) File all recorded land use restrictions in the property files
4 of the city, county, or regional council of government.

5 (2) Require that any person requesting a land use which differs
6 from those filed land use restrictions on the property apply to the
7 department for a variance or a removal of the land use restrictions
8 pursuant to Section 25233 or 25234.

9 (e) (1) A planning and building department of a city, county,
10 or regional council of governments may assess a property owner
11 a reasonable fee to cover the costs of taking the actions required
12 by subdivision (d).

13 (2) The department may assess a property owner a fee for the
14 reasonable costs of taking the actions required by *paragraph (1)*
15 *of subdivision (f), regardless of the time when the land use deed*
16 *restriction is recorded. The department may expend the fees, upon*
17 *appropriation by the Legislature, to carry out the requirements of*
18 *recorded. The department shall deposit the fee revenues in the*
19 *Hazardous Waste Control Account, for expenditure by the*
20 *department, pursuant to subdivision (b) of Section 25174, to carry*
21 *out the requirements of paragraph (1) of subdivision (f), including*
22 *entering into a contract pursuant to subdivision (g).*

23 (3) For purposes of this subdivision, “property owner” does
24 not include a person who holds evidence of ownership solely to
25 protect a security interest in the property, unless the person
26 participates, or has a legal right to participate, in the management
27 of the property.

28 (f) (1) The department shall maintain a list of all recorded land
29 use restrictions, including deed restrictions, recorded pursuant to
30 Section 1471 of the Civil Code and pursuant to Sections 25200,
31 25200.10, 25202.5, 25222.1, 25229, 25230, 25355.5, and
32 25398.7. ~~The in accordance with all of the following requirements:~~

33 (A) *The* list shall, at a minimum, provide the street address, or,
34 if a street address is not available, an equivalent description of
35 location for a rural location or the latitude and longitude, of each
36 property. ~~The~~

37 (B) *The* description of location shall contain any restricted uses
38 of the property, contaminants known to be present, and any
39 remediation of the property that is required. ~~The~~

1 (C) *The* department shall update the list as new deed
2 restrictions are recorded and as deed restrictions on properties are
3 changed. ~~The~~

4 (D) *The* department shall make the list available to the public,
5 upon request, and shall make the list available on the department's
6 Internet Web site. *The department shall maintain a hyperlink on*
7 *its Internet Web site that links this information to the information*
8 *maintained by the State Water Resources Control Board pursuant*
9 *to Section 13194 of the Water Code.* ~~The~~

10 (E) *The* list shall also be incorporated into the list of sites
11 compiled pursuant to Section 65962.5 of the Government Code.
12 ~~The~~

13 (2) *The* obligation of the department to maintain a list of
14 restrictions recorded pursuant to Section 1471 of the Civil Code
15 is limited to listing those deed restrictions that are reported to the
16 department.

17 (3) *For purposes of this subdivision, "hyperlink" means a*
18 *colored and underlined text or a graphic that a person may select*
19 *to connect to a file, a location in a file, or a page on the World Wide*
20 *Web.*

21 (g) The department may enter into a contract with a third party,
22 in accordance with the State Contract Act (Part 2 (commencing
23 with Section 10100) of Division 2 of the Public Contract Code) for
24 purposes of maintaining the list required by *paragraph (1) of*
25 *subdivision (f), if the department makes a finding that entering into*
26 *this contract is more cost effective than the maintenance of the list*
27 *by the department or that the contract will be part of a*
28 *comprehensive effort to assure the dissemination of knowledge*
29 *and compliance with deed use restrictions or other institutional*
30 *controls imposed pursuant to other provisions of law.*

31 SEC. 2. *Section 13194 is added to the Water Code, to read:*

32 13194. (a) *The state board shall post, on its Internet Web site,*
33 *a list of all sites for which a regional board has imposed a land use*
34 *restriction contained in a cleanup or abatement order issued*
35 *pursuant to Section 13304. The state board shall maintain a*
36 *hyperlink on its Internet Web site that links this information to the*
37 *information maintained by the Department of Toxic Substances*
38 *Control pursuant to subdivision (f) of Section 25220 of the Health*
39 *and Safety Code.*

1 **(b)** *The state board may assess a fee upon a person subject to*
2 *a land use restriction imposed pursuant to Section 13304, for the*
3 *reasonable costs of taking the actions required by subdivision (a).*
4 *The state board shall deposit the fee revenues in the State Water*
5 *Pollution Cleanup and Abatement Account of the State Water*
6 *Quality Control Fund, for expenditure by the State Water*
7 *Resources Control Board, pursuant to Section 13341, to carry out*
8 *the requirements of subdivision (a).*

